

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT TUCKER,

Defendant.

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8:06CR256

ORDER

This matter is before the court on the motion to continue by defendant Robert Tucker (Tucker) (Filing No. 12). Tucker seeks a continuance of the trial of this matter for at least sixty days due to Tucker's medical condition. Tucker's counsel represents that counsel for the government has no objection to the motion. Tucker's counsel represents that Tucker will submit an affidavit in accordance with paragraph 9 of the progression order whereby Tucker consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Tucker's motion to continue trial (Filing No. 12) is granted.
2. Trial of this matter is re-scheduled for **December 11, 2006**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **September 21, 2006 and December 11, 2006**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 21st day of September, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge